

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

DECISION AND ORDER

08-CR-27 and
06-CR-396

BERNARD BROWN,

Defendant.

This case was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1) for the conduct of pretrial proceedings. On April 24, 2024, Defendant Bernard Brown appeared before Magistrate Judge McCarthy and entered a plea of guilty to Charge Nos. 1 and 2 of the Petition for Offender under Supervision (Dkt. 06-CR-396, ECF 70; Dkt. 08-CR-27, ECF 93).

Magistrate Judge McCarthy issued a Report and Recommendation (Dkt. 06-CR-396, ECF 83; Dkt. 08-CR-27, ECF 109) confirming his oral findings that Defendant's plea of guilty was knowing, voluntary, and supported by a factual basis. No timely objections to the Report and Recommendation have been filed. It is hereby

ORDERED that, upon review of the plea agreement (Dkt. 06-CR-396, ECF 84; Dkt. 08-CR-27, ECF 110); plea transcript (Dkt. 06-CR-396, ECF 89 and Dkt. 08-CR-27, ECF 115) of the April 24, 2024, plea proceeding before the Magistrate Judge; and the Report and Recommendation, the Court finds, in accordance with the requirements set forth in *United States v. Pelensky*, 129 F.3d 63 (2d Cir.1997), that defendant knowingly and voluntarily: admitted the alleged conduct constituting such violation; and waived his

rights under Rule 32.1 of the Federal Rules of Criminal Procedure. The Magistrate Judge informed Defendant of his rights under Rule 32.1, including his right to a revocation hearing, and Defendant waived those rights and voluntarily admitted conduct establishing the violation. The Magistrate Judge determined that Defendant understood the foregoing. Accordingly, Defendant's plea of guilty is accepted based upon the oral findings of the Magistrate Judge as confirmed in the written Report and Recommendation.

Sentencing is scheduled for May 21, 2024 at 11:30 am.

IT IS SO ORDERED.

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: May 9, 2024
Buffalo, New York